

1 AN ACT
2 RELATING TO LICENSING; ENACTING THE IGNITION INTERLOCK
3 LICENSING ACT; ALLOWING INDIVIDUALS WHO HAVE A LICENSE
4 REVOKED OR DENIED FOR DRIVING WHILE UNDER THE INFLUENCE OF
5 INTOXICATING LIQUOR OR DRUGS TO APPLY FOR AN IGNITION
6 INTERLOCK LICENSE; PROVIDING PENALTIES; AMENDING AND
7 ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

10 Section 1. A new section of Chapter 66, Article 5 NMSA
11 1978 is enacted to read:

12 "SHORT TITLE.--Sections 1 through 4 of this act may be
13 cited as the "Ignition Interlock Licensing Act". "

14 Section 2. A new section of Chapter 66, Article 5 NMSA
15 1978 is enacted to read:

16 "DEFINITIONS.--As used in the Ignition Interlock
17 Licensing Act:

18 A. "denied" means having an instructor's permit,
19 driver's license or provisional license denied for driving
20 while under the influence of intoxicating liquor or drugs,
21 pursuant to the provisions of Subsection D of Section 66-5-5
22 NMSA 1978;

23 B. "ignition interlock device" means a regularly
24 calibrated device, approved by the traffic safety bureau,
25 that regulates the operation of a motor vehicle by measuring

1 an operator's blood alcohol level before allowing the
2 operator to start the vehicle and that periodically tests
3 the operator's blood alcohol level while he operates the
4 vehicle;

5 C. "ignition interlock license" means a driver's
6 license issued to a person by the division that allows that
7 person to operate a motor vehicle with an ignition interlock
8 device after that person's instructor's permit, driver's
9 license or provisional license has been revoked or denied.
10 The division shall clearly mark an ignition interlock
11 license to distinguish it from other driver's licenses; and

12 D. "revoked" means having an instructor's
13 permit, driver's license or provisional license revoked for
14 driving while under the influence of intoxicating liquor or
15 drugs, pursuant to the provisions of Sections 66-8-102 or
16 66-8-111 NMSA 1978. "

17 Section 3. A new section of Chapter 66, Article 5 NMSA
18 1978 is enacted to read:

19 "IGNITION INTERLOCK LICENSE-- REQUIREMENTS-- EXCLUSIONS. -

20 -

21 A. A person whose instructor's permit, driver's
22 license or provisional license has been revoked or denied
23 may apply for an ignition interlock license from the
24 division.

25 B. An applicant for an ignition interlock

1 license shall:

2 (1) provide proof of installation of the
3 ignition interlock device by a traffic safety bureau-
4 approved ignition interlock installer on any vehicle the
5 applicant drives; and

6 (2) sign an affidavit acknowledging that:

7 (a) operation by the applicant of any
8 vehicle that is not equipped with an ignition interlock
9 device is subject to penalties for driving with a revoked
10 license; and

11 (b) the applicant shall maintain the
12 ignition interlock device and keep up-to-date records in the
13 motor vehicle showing required service and calibrations and
14 be able to provide the records upon request.

15 C. A person who has been convicted of homicide
16 by vehicle or great bodily injury by vehicle while under the
17 influence of intoxicating liquor or drugs, as provided in
18 Section 66-8-101 NMSA 1978, shall not be issued an ignition
19 interlock license. "

20 Section 4. A new section of Chapter 66, Article 5 NMSA
21 1978 is enacted to read:

22 "PENALTIES. -- A person who is issued an ignition
23 interlock license and operates a vehicle that is not
24 equipped with an ignition interlock device in violation of
25 the Ignition Interlock Licensing Act shall be subject to the

1 penalties provided in Section 66-5-39 NMSA 1978. "

2 Section 5. Section 32A-2-19 NMSA 1978 (being Laws
3 1993, Chapter 77, Section 48, as amended) is amended to
4 read:

5 "32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT
6 OFFENDER. --

7 A. At the conclusion of the dispositional
8 hearing, the court may make and include in the dispositional
9 judgment its findings on the following:

10 (1) the interaction and interrelationship
11 of the child with the child's parents, siblings and any
12 other person who may significantly affect the child's best
13 interests;

14 (2) the child's adjustment to his home,
15 school and community;

16 (3) the mental and physical health of all
17 individuals involved;

18 (4) the wishes of the child as to his
19 custodian;

20 (5) the wishes of the child's parents as to
21 the child's custody;

22 (6) whether there exists a relative of the
23 child or other individual who, after study by the
24 department, is found to be qualified to receive and care for
25 the child;

1 (7) the availability of services
2 recommended in the predisposition report; and

3 (8) the ability of the parents to care for
4 the child in the home.

5 B. If a child is found to be delinquent, the
6 court may impose a fine not to exceed the fine that could be
7 imposed if the child were an adult and may enter its
8 judgment making any of the following dispositions for the
9 supervision, care and rehabilitation of the child:

10 (1) any disposition that is authorized for
11 the disposition of a neglected or abused child, in
12 accordance with the Abuse and Neglect Act;

13 (2) transfer legal custody to the
14 department, an agency responsible for the care and
15 rehabilitation of delinquent children, which shall receive
16 the child at a facility designated by the secretary of the
17 department as a juvenile reception facility. The department
18 shall thereafter determine the appropriate placement,
19 supervision and rehabilitation program for the child. The
20 judge may include recommendations for placement of the
21 child. Commitments are subject to limitations and
22 modifications set forth in Section 32A-2-23 NMSA 1978. The
23 types of commitments include:

24 (a) a short-term commitment of one
25 year;

1 (b) a long-term commitment for no more
2 than two years in a long-term facility for the care and
3 rehabilitation of adjudicated delinquent children;

4 (c) if the child is a delinquent
5 offender who committed one of the criminal offenses set
6 forth in Subsection I of Section 32A-2-3 NMSA 1978, a
7 commitment to age twenty-one, unless sooner discharged; or

8 (d) if the child is a youthful
9 offender, a commitment to age twenty-one, unless sooner
10 discharged;

11 (3) place the child on probation under
12 those conditions and limitations as the court may prescribe;

13 (4) place the child in a local detention
14 facility that has been certified in accordance with the
15 provisions of Section 32A-2-4 NMSA 1978 for a period not to
16 exceed fifteen days within a three hundred sixty-five day
17 time period;

18 (5) if a child is found to be delinquent
19 solely on the basis of Paragraph (3) of Subsection A of
20 Section 32A-2-3 NMSA 1978, the court shall only enter a
21 judgment placing the child on probation or ordering
22 restitution or imposing a fine not to exceed the fine that
23 could be imposed if the child were an adult or any
24 combination of these dispositions; or

25 (6) if a child is found to be delinquent

1 solely on the basis of Paragraph (2), (4) or (5) of
2 Subsection A of Section 32A-2-3 NMSA 1978, the court may
3 make any disposition provided by this section and may enter
4 its judgment placing the child on probation and, as a
5 condition of probation, transfer custody of the child to the
6 department for a period not to exceed six months without
7 further order of the court; provided that this transfer
8 shall not be made unless the court first determines that the
9 department is able to provide or contract for adequate and
10 appropriate treatment for the child and that the treatment
11 is likely to be beneficial.

12 C. When the child is an Indian child, the Indian
13 child's cultural needs shall be considered in the
14 dispositional judgment and reasonable access to cultural
15 practices and traditional treatment shall be provided.

16 D. No child found to be delinquent shall be
17 committed or transferred to a penal institution or other
18 facility used for the execution of sentences of persons
19 convicted of crimes.

20 E. Whenever the court vests legal custody in an
21 agency, institution or department, it shall transmit with
22 the dispositional judgment copies of the clinical reports,
23 predisposition study and report and other information it has
24 pertinent to the care and treatment of the child.

25 F. Prior to any child being placed in the

1 custody of the department, the department shall be provided
2 with reasonable oral or written notification and an
3 opportunity to be heard.

4 G. In addition to any other disposition pursuant
5 to this section or any other penalty provided by law, if a
6 child fifteen years of age or older is adjudicated
7 delinquent on the basis of Paragraph (2), (4) or (5) of
8 Subsection A of Section 32A-2-3 NMSA 1978, the child's
9 driving privileges may be denied or the child's driver's
10 license may be revoked for a period of ninety days. For a
11 second or a subsequent adjudication, the child's driving
12 privileges may be denied or the child's driver's license
13 revoked for a period of one year. Within twenty-four hours
14 of the dispositional judgment, the court may send to the
15 motor vehicle division of the taxation and revenue
16 department the order adjudicating delinquency. Upon receipt
17 of an order from the court adjudicating delinquency, the
18 director of the motor vehicle division of the taxation and
19 revenue department may revoke or deny the delinquent's
20 driver's license or driving privileges. Nothing in this
21 section may prohibit the delinquent from applying for a
22 limited driving privilege pursuant to Section 66-5-35 NMSA
23 1978 or an ignition interlock license pursuant to the
24 Ignition Interlock Licensing Act, and nothing in this
25 section precludes the delinquent's participation in an

1 appropriate educational, counseling or rehabilitation
2 program.

3 H. In addition to any other disposition pursuant
4 to this section or any other penalty provided by law, when a
5 child is adjudicated delinquent on the basis of Paragraph
6 (7) of Subsection A of Section 32A-2-3 NMSA 1978, the child
7 shall perform the mandatory community service set forth in
8 Section

9 30-15-1.1 NMSA 1978. When a child fails to completely
10 perform the mandatory community service, the name and
11 address of the child's parent or legal guardian shall be
12 published in a newspaper of general circulation, accompanied
13 by a notice that he is the parent or legal guardian of a
14 child adjudicated delinquent for committing graffiti."

15 Section 6. Section 32A-2-22 NMSA 1978 (being Laws
16 1993, Chapter 77, Section 51, as amended) is amended to
17 read:

18 "32A-2-22. CONTINUANCE UNDER SUPERVISION WITHOUT
19 JUDGMENT-- CONSENT DECREE-- DISPOSITION. --

20 A. At any time after the filing of a delinquency
21 petition and before the entry of a judgment, the court may,
22 on motion of the children's court attorney or that of
23 counsel for the child, suspend the proceedings and continue
24 the child under supervision in the child's own home under
25 terms and conditions negotiated with probation services and

1 agreed to by all the parties affected. The court's order
2 continuing the child under supervision under this section
3 shall be known as a "consent decree".

4 B. If the child objects to a consent decree, the
5 court shall proceed to findings, adjudication and
6 disposition of the case. If the child does not object but
7 an objection is made by the children's court attorney after
8 consultation with probation services, the court shall, after
9 considering the objections and the reasons given, proceed to
10 determine whether it is appropriate to enter a consent
11 decree and may, in its discretion, enter the consent decree.
12

13 C. A consent decree shall remain in force for
14 six months unless the child is discharged sooner by
15 probation services. Prior to the expiration of the six-
16 month period and upon the application of probation services
17 or any other agency supervising the child under a consent
18 decree, the court may extend the decree for an additional
19 six months in the absence of objection to extension by the
20 child. If the child objects to the extension, the court
21 shall hold a hearing and make a determination on the issue
22 of extension.

23 D. If either prior to discharge by probation
24 services or expiration of the consent decree the child
25 allegedly fails to fulfill the terms of the decree, the

1 children's court attorney may file a petition to revoke the
2 consent decree. Proceedings on the petition shall be
3 conducted in the same manner as proceedings on petitions to
4 revoke probation. If the child is found to have violated
5 the terms of the consent decree, the court may:

6 (1) extend the period of the consent
7 decree; or

8 (2) make any other disposition that would
9 have been appropriate in the original proceeding.

10 E. A child who is discharged by probation
11 services or who completes a period under supervision without
12 reinstatement of the original delinquency petition shall not
13 again be proceeded against in any court for the same offense
14 alleged in the petition or an offense based upon the same
15 conduct and the original petition shall be dismissed with
16 prejudice. Nothing in this subsection precludes a civil
17 suit against the child for damages arising from the child's
18 conduct.

19 F. A judge who pursuant to this section elicits
20 or examines information or material about a child that would
21 be inadmissible in a hearing on the allegations of the
22 petition shall not, over the objection of the child,
23 participate in any subsequent proceedings on the delinquency
24 if:

25 (1) a consent decree is denied and the

1 allegations in the petition remain to be decided in a
2 hearing where the child denies the allegations; or

3 (2) a consent decree is granted but the
4 delinquency petition is subsequently reinstated.

5 G. If a consent decree has been entered pursuant
6 to the filing of a delinquency petition based on Paragraph
7 (2), (4) or (5) of Subsection A of Section 32A-2-3 NMSA 1978
8 for a child who is fifteen years of age or older, a
9 condition of the consent decree agreement may be the denial
10 of the child's driving privileges or the revocation of the
11 child's driver's license for a period of ninety days. For
12 the second or subsequent adjudication, the child's driving
13 privileges may be denied or the child's driver's license
14 revoked for a period of one year. Within twenty-four hours
15 of the entry by the court of a decree consenting to the
16 revocation or denial of the child's driver's license or
17 driving privileges, the court shall send the decree to the
18 motor vehicle division of the taxation and revenue
19 department. Upon receipt of the decree from the court
20 consenting to the denial or revocation of the child's
21 driving privileges or driver's license, the director of the
22 motor vehicle division of the taxation and revenue
23 department shall revoke or deny the delinquent child's
24 driver's license or driving privileges. Nothing in this
25 section shall prohibit the delinquent child from applying

1 for a limited driving privilege pursuant to Section 66-5-35
2 NMSA 1978 or an ignition interlock license pursuant to the
3 Ignition Interlock Licensing Act, and nothing in this
4 section precludes the delinquent child's participation in an
5 appropriate educational, counseling or rehabilitation
6 program.

7 H. The court shall not order more than one
8 consent decree for a child within a two-year period. "

9 Section 7. Section 66-5-5 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 227, as amended) is amended to read:

11 "66-5-5. PERSONS NOT TO BE LICENSED. --The division
12 shall not issue a driver's license under the Motor Vehicle
13 Code to any person:

14 A. who is under the age of eighteen years,
15 except the division may, in its discretion, issue:

16 (1) an instruction permit to a person
17 fifteen years of age or over who is enrolled in and
18 attending or has completed a driver education course that
19 includes a DWI education and prevention component approved
20 by the bureau or offered by a public school;

21 (2) a provisional license to any person
22 fifteen years and six months of age or older:

23 (a) who has completed a driver
24 education course approved by the bureau or offered by a
25 public school that includes a DWI education and prevention

1 component and has had an instruction permit for at least six
2 months; and

3 (b) who has successfully completed a
4 practice driving component;

5 (3) a driver's license to any person
6 sixteen years and six months of age or older:

7 (a) who has had a provisional license
8 for the twelve-month period immediately preceding the date
9 of the application for the driver's license;

10 (b) who has complied with restrictions
11 on that license;

12 (c) who has not been convicted of a
13 traffic violation that was committed during the ninety days
14 prior to applying for a driver's license; and

15 (d) who has not been adjudicated for
16 an offense involving the use of alcohol or drugs during that
17 period and who has no pending adjudications alleging an
18 offense involving the use of alcohol or drugs at the time of
19 his application; and

20 (4) to any person thirteen years of age or
21 older who passes an examination prescribed by the division,
22 a license restricted to the operation of a motorcycle,
23 provided:

24 (a) the motor is not in excess of one
25 hundred cubic centimeters displacement;

1 (b) no holder of an initial license
2 may carry any other passenger while driving a motorcycle;
3 and

4 (c) the director approves and
5 certifies motorcycles as not in excess of one hundred cubic
6 centimeters displacement and by rule provides for a method
7 of identification of such motorcycles by all law enforcement
8 officers;

9 B. whose license or driving privilege has been
10 suspended or denied, during the period of suspension or
11 denial, or to any person whose license has been revoked,
12 except as provided in Section 66-5-32 NMSA 1978 and the
13 Ignition Interlock Licensing Act;

14 C. who is an habitual drunkard, an habitual user
15 of narcotic drugs or an habitual user of any drug to a
16 degree that renders him incapable of safely driving a motor
17 vehicle;

18 D. who, within any ten-year period, is three
19 times convicted of driving a motor vehicle while under the
20 influence of intoxicating liquor or narcotic drug regardless
21 of whether the convictions are under the laws or ordinances
22 of this state or any municipality or county of this state or
23 under the laws or ordinances of any other state, the
24 District of Columbia or any governmental subdivision
25 thereof, except as provided in the Ignition Interlock

1 Licensing Act. Ten years after being so convicted for the
2 third time, the person may apply to any district court of
3 this state for restoration of the license, and the court,
4 upon good cause being shown, may order restoration of the
5 license applied for; provided that the person has not been
6 subsequently convicted of driving a motor vehicle while
7 under the influence of intoxicating liquor or drugs in the
8 ten-year period prior to his request for restoration of his
9 license. Upon issuance of the order of restoration, a
10 certified copy shall immediately be forwarded to the
11 division, and if the person is otherwise qualified for the
12 license applied for, the three previous convictions shall
13 not prohibit issuance of the license applied for. Should
14 the person be subsequently once convicted of driving a motor
15 vehicle while under the influence of intoxicating liquor or
16 drugs, the division shall revoke his license for five years,
17 after which time he may apply for restoration of his license
18 as provided in this subsection;

19 E. who has previously been afflicted with or who
20 is suffering from any mental disability or disease that
21 would render him unable to drive a motor vehicle with safety
22 upon the highways and who has not, at the time of
23 application, been restored to health;

24 F. who is required by the Motor Vehicle Code to
25 take an examination, unless he has successfully passed the

1 examination;

2 G. who is required under the laws of this state
3 to deposit proof of financial responsibility and who has not
4 deposited the proof;

5 H. when the director has good cause to believe
6 that the operation of a motor vehicle on the highways by the
7 person would be inimical to public safety or welfare; or

8 I. as a motorcycle driver who is less than
9 eighteen years of age and who has not presented a
10 certificate or other evidence of having successfully
11 completed a motorcycle driver education program licensed or
12 offered in conformance with rules of the bureau. "

13 Section 8. Section 66-5-29 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 251, as amended) is amended to read:

15 "66-5-29. MANDATORY REVOCATION OF LICENSE BY
16 DIVISION. --

17 A. The division shall immediately revoke the
18 instruction permit, driver's license or provisional license
19 of a driver upon receiving a record of the driver's
20 adjudication as a delinquent for or conviction of any of the
21 following offenses, whether the offense is under any state
22 law or local ordinance, when the conviction or adjudication
23 has become final:

24 (1) manslaughter or negligent homicide
25 resulting from the operation of a motor vehicle;

1 (2) any offense rendering a person a "first
2 offender" as defined in the Motor Vehicle Code, if that
3 person does not attend a driver rehabilitation program
4 pursuant to Subsection E of Section 66-8-102 NMSA 1978;

5 (3) any offense rendering a person a
6 "subsequent offender" as defined in the Motor Vehicle Code;

7 (4) any felony in the commission of which a
8 motor vehicle is used;

9 (5) failure to stop and render aid as
10 required under the laws of this state in the event of a
11 motor vehicle accident resulting in the death or personal
12 injury of another;

13 (6) perjury or the making of a false
14 affidavit or statement under oath to the division under the
15 Motor Vehicle Code or under any other law relating to the
16 ownership or operation of motor vehicles; or

17 (7) conviction or forfeiture of bail not
18 vacated upon three charges of reckless driving committed
19 within a period of twelve months.

20 B. Except as provided in the Ignition Interlock
21 Licensing Act, a person whose license has been revoked under
22 this section, except as provided in Subsection C, D or E of
23 this section, shall not be entitled to apply for or receive
24 a new license until the expiration of one year from the date
25 of the last application on which the revoked license was

1 surrendered to and received by the division, if no appeal is
2 filed, or one year from the date that the revocation is
3 final and he has exhausted his rights to an appeal.

4 C. A person who upon adjudication as a
5 delinquent or conviction is subject to license revocation
6 under this section for an offense pursuant to which he was
7 also subject to license revocation pursuant to Section
8 66-8-111 NMSA 1978 shall have his license revoked for that
9 offense for a combined period of time equal to one year.

10 D. Upon receipt of an order from a court
11 pursuant to Section 32A-2-19 NMSA 1978 or Subsection G of
12 Section 32A-2-22 NMSA 1978, the division shall revoke the
13 driver's license or driving privileges for a period of time
14 in accordance with these provisions.

15 E. Upon receipt from a district court of a
16 record of conviction for the offense of shooting at or from
17 a motor vehicle pursuant to Subsection B of Section 30-3-8
18 NMSA 1978 or of a conviction for a conspiracy or an attempt
19 to commit that offense, the division shall revoke the
20 driver's licenses or driving privileges of the convicted
21 person. A person whose license or privilege has been
22 revoked pursuant to the provisions of this subsection shall
23 not be entitled to apply for or receive any new license or
24 privilege until the expiration of one year from the date of
25 the last application on which the revoked license was

1 surrendered to and received by the division, if no appeal is
2 filed, or one year from the date that the revocation is
3 final and the person has exhausted his rights to an appeal."

4 Section 9. Section 66-5-32 NMSA 1978 (being Laws 1978,
5 Chapter 35, Section 254, as amended) is amended to read:

6 "66-5-32. PERIOD OF SUSPENSION OR REVOCATION. --

7 A. The division shall not suspend a driver's
8 license or privilege to drive a motor vehicle on the public
9 highways for a period of more than one year except as
10 permitted under Subsection C of this section and Sections
11 66-5-5 and 66-5-39 NMSA 1978.

12 B. Except as provided in the Ignition Interlock
13 Licensing Act, a person whose license or privilege to drive
14 a motor vehicle on the public highways has been revoked
15 shall not be entitled to have the license or privilege
16 renewed or restored unless the revocation was for a cause
17 that has been removed, except that after the expiration of
18 the period specified in Subsection B of Section 66-5-29 NMSA
19 1978 from the date on which the revoked license was
20 surrendered to and received by the division, the person may
21 make application for a new license as provided by law.

22 C. The suspension period for failure to appear
23 or failure to remit the penalty assessment shall, at the
24 discretion of the director, be extended indefinitely subject
25 to the provisions of Subsection B of Section 66-5-30 NMSA

1 1978. "

2 Section 10. Section 66-5-35 NMSA 1978 (being Laws
3 1978, Chapter 35, Section 257, as amended by Laws 2001,
4 Chapter 47, Section 1 and also by Laws 2001, Chapter 242,
5 Section 1) is amended to read:

6 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
7 REVOCATION-- HEARING-- REVIEW. --

8 A. Upon suspension or revocation of a person's
9 driver's license following conviction or adjudication as a
10 delinquent under any law, ordinance or rule relating to
11 motor vehicles, a person may apply to the department for a
12 license or permit to drive, limited to use allowing him to
13 engage in gainful employment, to attend school or to attend
14 a court-ordered treatment program, except that the person
15 shall not be eligible to apply:

16 (1) for a limited commercial driver's
17 license or an ignition interlock license in lieu of a
18 revoked or suspended commercial driver's license;

19 (2) for a limited license when the person's
20 driver's license was revoked pursuant to the provisions of
21 the Implied Consent Act, except as provided in Subsection B
22 of this section or the Ignition Interlock Licensing Act;

23 (3) for a limited license when the person's
24 license was revoked pursuant to the provisions of Section
25 66-8-102 NMSA 1978, except as provided in the Ignition

1 Interlock Licensing Act;

2 (4) for a limited license when the person's
3 driver's license is denied pursuant to the provisions of
4 Subsection D of Section 66-5-5 NMSA 1978, except as provided
5 in the Ignition Interlock Licensing Act; or

6 (5) for a limited license when the person's
7 driver's license was revoked pursuant to a conviction for
8 committing homicide by vehicle or great bodily injury by
9 vehicle, as provided in Section 66-8-101 NMSA 1978.

10 B. A person whose driver's license is revoked
11 for the first time pursuant to the provisions of Paragraph
12 (1) or (2) of Subsection C of Section 66-8-111 NMSA 1978 may
13 apply for and shall receive a limited license, permit or an
14 ignition interlock license thirty days after suspension or
15 revocation of his license if the person pays every fee,
16 meets the criteria for limited driving privileges
17 established in rules by the department and provides the
18 department with documentation of the following:

19 (1) that the person is enrolled in a DWI
20 school approved by the traffic safety bureau and an approved
21 alcohol screening program; and

22 (2) proof of financial responsibility
23 pursuant to the provisions of the Mandatory Financial
24 Responsibility Act;

25 C. Upon receipt of a fully completed application

1 that complies with statutes and rules for a limited license
2 or an ignition interlock license and payment of the fee
3 specified in this subsection, the department shall issue a
4 limited license, ignition interlock license or permit to the
5 applicant showing the limitations specified in the approved
6 application. For each limited license, ignition interlock
7 license or permit to drive, the applicant shall pay to the
8 department a fee of forty-five dollars (\$45.00), which shall
9 be transferred to the state highway and transportation
10 department. All money collected under this subsection shall
11 be used for DWI prevention and education programs for
12 elementary and secondary school students. The state highway
13 and transportation department shall coordinate with the
14 department of health to ensure that there is no program
15 duplication. The limited license or permit to drive may be
16 suspended as provided in Section 66-5-30 NMSA 1978.

17 D. The department, within twenty days of denial
18 of an application for a limited driver's license or permit
19 pursuant to this section, shall afford the applicant a
20 hearing in the county in which the applicant resides, unless
21 the department and the licensee agree that the hearing may
22 be held in some other county. The department may extend the
23 twenty-day period, provided that the extension is in writing
24 and made no later than fifteen days after receipt of an
25 application. Upon hearing, the hearing officer designated

1 by the department may administer oaths and may issue
2 subpoenas for the attendance of witnesses and the production
3 of relevant books and papers. The hearing officer shall
4 make specific findings as to whether the applicant has shown
5 proof of financial responsibility for the future and
6 enrollment in an approved DWI school and an approved alcohol
7 screening program and meets established uniform criteria for
8 limited driving privileges adopted by rule of the
9 department. The hearing officer shall enter an order either
10 approving or denying the applicant's request for a limited
11 license or permit to drive. If any of the specific findings
12 set forth in this subsection are not found by the hearing
13 officer, the applicant's request for a limited license or
14 permit shall not be approved.

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15 E. A person adversely affected by an order of
16 the hearing officer may seek review within thirty days in
17 the district court in the county in which he resides. On
18 review, it is for the court to determine only whether the
19 applicant met the requirements in this section for issuance
20 of a limited license or permit to drive."

21 Section 11. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect
23 immediately. _____
24
25